

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:07-CR-51
	)	(Phillips / Shirley)
JOHNNIE MARTIN,	)	
AARON BROOKS,	)	
LASHONDA HALL,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate.

On February 7, 2008, this matter came before the Court for hearing on the merits two motions filed by Attorney James A.H. Bell on behalf of Defendant Johnnie Martin: Motion to Dismiss for Prosecutorial Misconduct [Doc. 252]; and Motion to Withdraw [Doc. 254]. That hearing was concluded on February 14, 2008. Present at both hearings were Attorney Mike Whalen, on behalf of LaShonda Hall, who was also present; Attorney Roland Cowden, with his client Aaron Brooks; and Attorney James A.H. Bell on behalf of Johnnie Martin, who was also present. Assistant United States Attorneys David Jennings and Tracee Plowell represented the government throughout the proceedings; Assistant United States Attorney Steve Cook made a limited appearance on behalf of the government on February 14, 2008.

At the conclusion of the proceedings, the Court found no basis for relief in Mr. Martin's Motion to Dismiss for Prosecutorial Misconduct [Doc. 252]. The Court found the defendant had failed to demonstrate any prosecutorial misconduct, this finding was based upon the reasons set forth more fully in this Court's oral ruling on February 14, 2008.

The Court allowed Attorney Bell to withdraw from further representation of Mr. Martin, as requested in his Motion to Withdraw [Doc. 254]. While the Court does not find that the conflict proffered by Attorney Bell was demonstrated by the record, but agrees with the position of the government that, in the absence of further information, an abundance of precaution is warranted, and given the finding by the Tennessee Board of Professional Responsibility, that Attorney Bell's withdrawal should be permitted.

Attorney Bell is now relieved as counsel for Mr. Martin, except to the extent necessary to complete transition of the case to new counsel. This Court will endeavor to appoint new counsel for Mr. Martin by February 19, 2008, at 9:30 a.m, the date and time set for consideration of additional matters arising from the replacement of Mr. Martin's counsel.

This case is currently scheduled to be tried before the District Court beginning February 28, 2008. The Court finds that no new attorney for Mr. Martin could be prepared to proceed to trial in this case in the remaining 14 calendar days. For that reason, the trial of Johnnie Martin will necessarily be continued. At the time new counsel is appointed, the Court will take up the matter of a new trial date.

As to Mr. Brooks and Ms Hall, they may file with the Court any motions they deem appropriate on the issue of trial severance or pertaining to their current trial date of February 28, 2008. Such motions must be filed no later than the close of business (5:00 p.m.) Friday, February

15, 2008. Should the government oppose any such motions, responses are due no later than the close of business (5:00 p.m.) Monday, February 18, 2008.<sup>1</sup> The Court will hear argument on these issues February 19, 2008, at 9:30 a.m.

Accordingly, it is **ORDERED**:

(1) Motion to Dismiss for Prosecutorial Misconduct [**Doc. 252**] is **DENIED**;

(2) Motion to Withdraw [**Doc. 254**] is **GRANTED**; and

(3) This matter is set for further proceedings as described herein on **Tuesday, February 19, 2008, at 9:30 a.m.** Defendants Martin, Hall and Brooks should be present.

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge

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<sup>1</sup> The Court notes that on this date, the Clerk of the Court will not conduct business in observance of Presidents' Day. AUSA Jennings, however, offered to file the responses over the holiday weekend in order to schedule the hearing as quickly as possible in light of the fast approaching trial date.